

THIS DISPOSITION IS NOT CITABLE AS  
PRECEDENT OF THE TTAB JUNE 23, 00

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re **International Data Group, Inc.**

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Serial No. 75/111,251

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Mark B. Harrison of Spencer & Frank for applicant.

Teresa Rupp, Trademark Examining Attorney, Law Office 110  
(Chris A.F. Pedersen, Managing Attorney).

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Before Quinn, **Wendel** and Rogers, Administrative Trademark  
Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application has been filed by International Data  
Group, Inc. to register the mark WEB AUDIO for "magazines,  
magazine supplements, catalogues, manuals, brochures,  
pamphlets, guides, newsletters, journals, and books in the  
fields of computers, computer software, on-line services,  
high technology, communications, information technology and  
information services" (in International Class 16) and  
"providing on-line magazines, magazine supplements,

catalogues, manuals, brochures, pamphlets, guides, newsletters, journals and books in the fields of computers, computer software, on-line services, high technology, communications, information technology and information services; [and] providing a website in the fields of computers, computer software, on-line services, high technology, communications information technology and information services" (in International Class 42).<sup>1</sup>

The Trademark Examining Attorney has refused registration under Section 2(e)(1) of the Act on the ground that applicant's mark, if used in connection with applicant's goods and services, would be merely descriptive thereof.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney have filed briefs. An oral hearing was not requested.

Applicant contends that the term sought to be registered does not immediately and forthwith convey a characteristic, function or feature of its services. Rather, according to applicant, the term is just suggestive. Applicant asserts that "while consumers viewing applicant's mark would know that applicant's print

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<sup>1</sup> Application Serial No. 75/111,251, filed May 29, 1996, alleging a bona fide intention to use the mark in commerce.

and on-line publications have something to do with sites on the global computer network featuring sound, without more information, they would be hard pressed to articulate the exact subject matter of applicant's goods and services." (brief, p. 5)

The Examining Attorney maintains that applicant's identification of goods and services is broadly worded, and would include printed and electronic publications in the field of web audio technology. Further, the Examining Attorney presumes that applicant's website will have sound which is a desirable feature. In support of the refusal, the Examining Attorney has submitted excerpts retrieved from the NEXIS database showing uses of the term "Web audio."

It is well settled that a term is considered to be merely descriptive of goods and/or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it immediately describes a quality, characteristic or feature thereof or if it directly conveys information regarding the nature, function, purpose or use of the goods and/or services. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). It is not necessary that a term describe all of the properties or functions of the goods and/or services in order for it to be considered to

be merely descriptive thereof; rather, it is sufficient if the term describes a significant attribute or feature about them. Moreover, whether a term is merely descriptive is determined not in the abstract but in relation to the goods and/or services for which registration is sought. In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979).

In this high tech day and age, it hardly need be stated that the term "Web" is the commonly used name for the "World Wide Web." Lest there be any doubt, we take judicial notice of the dictionary listing for the term "Web" showing the term defined as "the most commonly used name for the *World Wide Web*, an interlinked collection of **hypertext** documents (**Web pages**) residing on **Web servers** and other documents, menus, and databases, available via **URLs** (uniform resource locators)." *The Internet Dictionary* (1995)

The NEXIS excerpts show that the term "Web audio" has been used in a descriptive manner in connection with the technology of producing sound on sites found on the World Wide Web. Such uses include the following: "Sound is a vital element of true multimedia Web pages--but how should sound be used? What Web audio technology is appropriate for the job?;" "Web audio is poised to become a common feature of Web sites--like fancy graphics and animation;"

"tools for tuning in Web audio now are easier to come by;" "other software makers are stepping up their own Web audio efforts;" "Web audio programming;" and "listen to the Web audio clip of the car chase."

The evidence of record persuades us that the term "Web audio" has a recognized meaning in the computer field, namely to identify a technology which allows computer users to listen to sounds, including music, on the World Wide Web. We agree with the Examining Attorney that the identification of goods and services, as worded, is broad enough to encompass printed and on-line publications and websites dedicated to, or featuring the subject of, Web audio. A consumer encountering WEB AUDIO for applicant's goods and services would be immediately informed that the printed and on-line publications and website featured the topic of the use of sound on the World Wide Web, that is, "Web audio." Further, it is quite likely that applicant's own website would use Web audio technology.

In view of the above, the term WEB AUDIO, if used in connection with applicant's goods and services, would be merely descriptive thereof.<sup>2</sup>

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<sup>2</sup> In the event applicant ultimately prevails in this appeal, attention is directed to the Examining Attorney's remark in her brief at page 3, footnote 1.

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Decision: The refusal to register is affirmed.

T. J. Quinn

H. R. Wendel

G. F. Rogers  
Administrative Trademark  
Judges, Trademark Trial  
and Appeal Board

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